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C O N F I D E N T I A L SECTION 01 OF 02 BERLIN 001772

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TAGS: [PTER](#) [PGOV](#) [PREL](#) [KHLS](#) [KJUS](#) [GM](#)
SUBJECT: CHANCELLERY REACTS SKEPTICALLY TO JUSTICE
MINISTRY'S PROPOSED ANTI-TERRORISM MEASURES

REF: A. BERLIN 1767

[1](#)B. BERLIN 1398

Classified By: DCM John M. Koenig for reasons 1.4 (b) and (d).

Summary

[1](#)1. (C) New draft anti-terrorism legislation proposed by Justice Minister Zypries (SPD) has come under fire from the other side of the governing grand coalition. Chancellery Director General for Interior and Legal Affairs Michael Wettengel told EMIN September 18 that the new draft counterterrorism legislation proposed by the Justice Ministry would likely not be an effective prosecutorial tool against those suspected of having attended an overseas terrorist training camp due to the difficulty of obtaining evidence and proving that such persons actually intend to commit terrorist attacks. These concerns were echoed by a number of Bundestag parliamentarians who publicly criticized the proposed amendments as not going far enough and difficult to implement in practice. Wettengel viewed the proposal as a hastily developed response to the public outcry concerning homegrown terrorist threats in Germany following the September 4 arrests of three individuals suspected of having attended a terrorist training camp in Pakistan (Ref A). The Justice Ministry draft is the latest proposal in a continuing debate within the cabinet regarding measures to strengthen Germany's counterterrorism legal framework and will likely face resistance within the cabinet in its current form.

End Summary

[1](#)2. (U) On September 18 the Justice Ministry, which is responsible for amendments to the criminal code, released a draft proposal to increase the scope and penalties for a number of terrorism-related offenses. These include broadened criminalization of preparatory actions for terrorist attacks such as participating in terrorist training or conducting training for others with the intention to commit a terrorist attack; creating, obtaining, or storing of weapons or substances or devices to be used in an attack; obtaining or storing devices or precursors to create weapons or bombs; and the financing of terrorist attacks. The Justice Ministry explained that these new provisions are intended to increase prosecutorial powers against those who train in foreign terrorist camps as well as permit authorities to take earlier action against those in the planning stages of a terrorist attack.

13. (U) Further provisions in the new proposal would penalize the distribution, including on the internet, of materials or manuals on how to conduct terrorist attacks. Lastly, there is a provision that would permit the deportation, or refusal of re-entry, to non-citizen residents who violate these new measures.

14. (U) The Justice Ministry draft came under immediate criticism from CDU Domestic Policy Spokesman Wolfgang Bosbach who judged the proposal to be inadequate given its requirement that prosecutors be able to prove that those who undertake terrorism training have the intention of committing actual attacks. Bosbach indicated that meeting this legal standard would be too difficult in practice and therefore render the new legislation ineffective. Green Party parliamentarian Volker Beck criticized the proposal for being vague and open to interpretation.

15. (C) Director General Wettengel does not believe the measure will be an effective prosecutorial tool due to the difficulty of developing a technical, legal definition of what terrorist training entails or what constitutes a terrorist training camp. Developing evidence and proving in a court of law that a suspect intended to engage in acts of terrorism would also be difficult. Wettengel said he sees the proposed legislation more as a psychological tool designed to reassure the public rather than a measure that will have any real teeth. He said it was not yet clear how or when the cabinet would act on the Justice Ministry proposal. As a procedural matter, such a proposal needs to be circulated and agreed upon within the government before being approved by the cabinet and finally submitted to the Bundestag for adoption.

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16. (C) With the appearance of the Justice Ministry draft there are now two main counterterrorism legislative proposals circulating. The first, crafted by the Interior Ministry (run by CDU Minister Schaeuble) is aimed at enhancing the investigative powers of the Federal Criminal Police (Ref B) and has met with considerable resistance from Zypries due to data privacy concerns. Given Bosbach and Wettengel's statements it seems likely that cabinet agreement on the Justice Ministry proposal will not be easy and we expect CDU/Interior Ministry demands for revisions that would make it easier to prosecute individuals who attended overseas terrorist training camps.

TIMKEN JR